

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MONADNOCK CONSTRUCTION, INC.,

Plaintiff,

-against-

WESTCHESTER FIRE INSURANCE
COMPANY,

Defendant.

Case No.: 16 CIV. 00420 (JBW)
(VMS) ECF Case

**STIPULATION DISMISSING
COMPLAINT WITH
PREJUDICE AND
WITHDRAWING MOTIONS**

-----X
WESTCHESTER FIRE INSURANCE
COMPANY,

Third-Party Plaintiff,

-against-

GLASSWALL, LLC, UGO COLOMBO, and
SARA JAYNE KENNEDY COLOMBO

Third-Party Defendants.

-----X

WHEREAS plaintiff Monadnock Construction, Inc. ("Monadnock") filed a summons with notice against defendant Westchester Fire Insurance Company ("Westchester Fire") on or about December 22, 2015 in the Supreme Court of the State of New York for Kings County (Index No.: 515499/2015); and

WHEREAS Westchester Fire removed the action to this Court on or about January 26, 2016; and

WHEREAS Monadnock filed a complaint against Westchester Fire on or about March 1, 2016; and

WHEREAS Monadnock filed an amended complaint against Westchester Fire, Glasswall, LLC ("Glasswall") and Ugo Colombo on or about October 3, 2017; and

WHEREAS on or about January 12, 2018 Westchester Fire filed a motion for summary judgment to dismiss Monadnock's amended complaint ("Amended Complaint"); and

WHEREAS Monadnock filed a cross-motion for summary judgment against Westchester Fire on or about February 28, 2018; and

WHEREAS on or about July 17, 2018 Monadnock purported to assign to MD Holding, LLC ("MD") the rights and claims set out in a document titled "Assignment of Judgment and Claims," attached hereto as Exhibit A; and

WHEREAS, to account for any possible invalidity of the Assignment, and to ensure that the party properly holding the claims originally asserted by Monadnock in the Amended Complaint appeared in this Action and stipulated to their dismissal with prejudice, MD hereby seeks to intervene in this Action for the purpose of joining with Monadnock to stipulate to the dismissal with prejudice of all such claims; and

WHEREAS the parties, including MD, wish to dismiss with prejudice the claims originally asserted against Westchester Fire in the amended complaint.

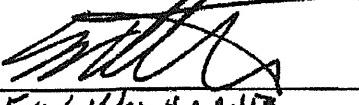
NOW THEREFORE IT IS STIPULATED AND AGREED that;

1. MD is permitted to intervene as a party plaintiff to join with Monadnock to effectuate the dismissal with prejudice of the claims referred to in paragraph 3 below.
2. Monadnock and MD agree to jointly dismiss with prejudice the claims referred to in paragraph 3 below.
3. The claims originally asserted by Monadnock against Westchester Fire in the amended complaint are hereby dismissed with prejudice.

4. Westchester Fire's motion for summary judgment is hereby withdrawn.
5. Monadnock's cross-motion for summary judgment is hereby withdrawn.

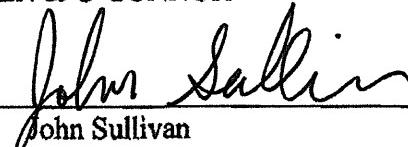
DATED: NEW YORK, NEW YORK
JANUARY 11, 2019

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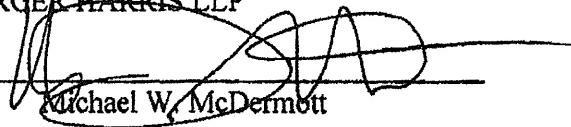
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